IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.18030 of 2003
Date of decision: 19.10.2007

The Haryana State Cooperative Supply and Marketing Federation Federation Ltd., Panchkula (HAFED)

-----Petitioners

Vs.

Presiding Officer and another.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. Girish Agnihotri, Sr. Advocate with
Mr. Sanjeev Puri, Advocate
for the petitioners.

ADARSH KUMAR GOEL, J.

This petition seeks quashing of award dated 17.1.2003, Annexure P-6.

Case of the workman was that he was engaged as a Sweeper in the year 1989 on daily wages. His services were terminated in February, 1998 without following due procedure.

The petitioner-management contested the claim by submitting that the workman was employed on part time basis for a job of half and hour daily and he worked for few days only intermittently.

The labour Court held that management failed to discharge the burden of the period of employment of the workman by producing the record and, therefore, the workman was entitled to reinstatement with backwages for violation of Section 25-F of the Industrial Disputes Act, 1947 (for short, “the Act”).

Learned counsel for the petitioners at the threshold stated that provisions of Section 17-B of the Act have been duly complied with during the pendency of this petition.

He further submitted that the inference by the Labour Court that the workman had worked for more than 240 days, was not justified. In any case, even if 240 days’ service was completed, the workman was not entitled to reinstatement with backwages. As a daily wager, he did not have the right to the post and he was not appointed by following rules and regulations. The employment was public employment. He relies upon judgments of the Hon’ble Supreme Court in ***M.P. State Agro Industries Development Corpn. Ltd. and another v. S.C. Pandey*** (2006) 2 SCC 716 and ***U.P. Power Corporation and another v . Bijli Mazdoor Sangh and others*** (2007) 5 SCC 755.

The workman has not put in appearance.

We find merit in the contention raised. In absence of recruitment having been made to public employment after following rules and regulations, no right to reinstatement can be claimed as held in the judgments relied upon. Moreover, the workman being a daily wager, his employment was terminable

and Section 25-F of the Act will not be attracted in such a situation, as held in ***Municipal Council, Samrala* v. *Raj Kumar*** 2006 (3) SCC 81.

Accordingly, this petition is allowed and the impugned award is quashed.

(Adarsh Kumar Goel)
Judge

October 19, 2007 **(Ajai Lamba)**
ashwani **Judge**